

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

Settlement Date: July 5, 2011  
Settlement Time: Noon

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In re	:	Chapter 11
	:	
WEST END FINANCIAL	:	
ADVISORS, LLC, <i>et al.</i> ,	:	Case No. 11-11152 (SMB)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----X	:	

**AMENDED NOTICE OF SETTLEMENT OF ORDER APPROVING  
THE APPOINTMENT OF CHAPTER 11 EXAMINER**

PLEASE TAKE NOTICE, that annexed hereto is a copy of a proposed order approving the appointment of Albert Togut, Esq. as the Chapter 11 Examiner (the "Proposed Order"), which is attached as Exhibit 2 to the Application for Order Approving Appointment of Examiner (ECF Doc. No. 163). Also annexed hereto is a copy of the Notice of Appointment of Examiner (ECF Doc. No. 162). Pursuant to Local Bankruptcy Rule 9074-1, the Proposed Order will be presented to the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004, on July 5, 2011 at 12:00 noon for signature (the "Settlement Date").

PLEASE TAKE FURTHER NOTICE, the objections, if any, to the Proposed Order, must be in writing, filed with the Court, with a copy to Chambers, provided, however, that pursuant to General Order No. M-399 re: Electronic Case filing Procedures (as amended from time to time), entities with Internet access shall file objections (formatted in PDF Format) at

<http://www.nysb.uscourts.gov>, and served upon the undersigned so as to be received no later than 11:30 a.m. on the Settlement Date. In the event objections are timely interposed, the Court will schedule a Hearing on said objections. In the event no objections are interposed timely, the Proposed Order may be signed.

Dated: New York, New York  
June 28, 2011

TRACY HOPE DAVIS  
UNITED STATES TRUSTEE

By /s/ Brian S. Masumoto  
Brian S. Masumoto  
Trial Attorney  
33 Whitehall Street, 21st Floor  
New York, New York 10004-2112  
Tel. No. (212) 510-0500

To: The Parties on the Attached List via Facsimile and First Class Mail

### Service List

1. West End Financial Advisors LLC 410 Park Avenue 15th Floor New York, NY 10022
2. The attorneys for the Debtors, Robinson Brog Leinwand Greene Genovese & Gluck, P.C., 875 Third Avenue, 9th Floor, New York, NY 10022 Attn: Arnold Mitchell Green, Esq.; John Dominick D’Ercole, Esq.
3. The United States Securities & Exchange Commission, New York Regional Office, 3 World Financial Center, New York, NY 10281 Attn: Howard Fischer, Esq., Senior Trial Counsel.
4. The Official Committee of Unsecured Creditors c/o Klestadt & Winters, LLP 570 Seventh Avenue, 17th Floor New York, NY 10018.
5. Northlight Financial LLC, 24 West 40<sup>th</sup> Street, 12<sup>th</sup> Floor, New York, NY 10018.
6. Togut, Segal & Segal LLP, One Penn Plaza, New York, NY 10119 Attn: Albert Togut, Esq. Albert Togut
7. Northlight Financial LLC c/o Kasowitz, Benson, Torres & Friedman LLP 1633 Broadway New York, New York 10019, Attn: Matthew B. Stein

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	Chapter 11
In re	:	
	:	Case No. 11-11152 (SMB)
WEST END FINANCIAL	:	
ADVISORS, LLC, <i>et al.</i> ,	:	(Jointly Administered)
	:	
Debtors.	:	
	:	
	-----X	

**APPLICATION FOR ORDER APPROVING APPOINTMENT OF EXAMINER**

TO: THE HONORABLE STUART M. BERNSTEIN, UNITED STATES BANKRUPTCY JUDGE:

Tracy Hope Davis, the United States Trustee for Region 2, hereby applies to this Court, pursuant to Rule 2007.1 of the Federal Rules of Bankruptcy Procedure, for an Order approving the appointment of an examiner in the above-captioned cases, and in support thereof, states the following:

1. By Order dated June 16, 2011, the Court directed the appointment of an Examiner in the captioned cases. (ECF Dkt. No. 157).
2. On June 23, 2011, the United States Trustee filed with the Court a Notice of Appointment of Examiner, pursuant to which she appointed Albert Togut, Esq., to serve as the Examiner in these cases. (ECF Dkt. No. 162).
3. In making her selection, the United States Trustee consulted with counsel for the following parties in interest:

Arnold Mitchell Greene, Esq.  
Robinson Brog Leinwand Greene  
Genovese & Gluck, P.C.

Debtors' Counsel

Fred Stevens, Esq.  
Klestadt & Winters, LLP

Official Committee of Unsecured  
Creditors

Neal Jacobson, Esq.  
Securities and Exchange Commission

Securities and Exchange  
Commission

Matthew B. Stein, Esq.  
Kasowitz, Benson, Torres & Friedman  
LLP

Northlight Fund LP

4. To the best of the United States Trustee's knowledge, Albert Togut has no connections with West End Financial Advisors, LLC ("WEFA") and its affiliated debtors, their creditors and any other parties in interest, other than those connections set forth in the Declaration of Disinterestedness By Albert Togut dated June 23, 2011, a copy of which is annexed hereto as Exhibit 1.

WHEREFORE, the United States Trustee respectfully requests that the Court enter an Order Approving the Appointment of Albert Togut, as Examiner, pursuant to Section 1104(d) of title 11, United States Code (the "Bankruptcy Code"), a proposed form of which is annexed hereto as Exhibit 2, and for such other and further relief as the Court deems just.

Dated: New York, New York  
June 23, 2011

TRACY HOPE DAVIS  
UNITED STATES TRUSTEE

By /s/ Brian S. Masumoto  
Brian S. Masumoto  
Trial Attorney  
33 Whitehall Street, 21st Floor  
New York, New York 10004-2112  
Tel. No. (212) 510-0500

# EXHIBIT 1

TOGUT, SEGAL & SEGAL LLP  
One Penn Plaza, Suite 3335  
New York, New York 10119  
(212) 594-5000  
Albert Togut

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
In the Matter	:	Chapter 11
	:	Case Nos. 11-11152 (SMB)
-of-	:	through 11-11167(SMB)
	:	
WEST END FINANCIAL ADVISORS,	:	(Jointly Administered)
LLC et al.,	:	
	:	
Debtors.	:	
	:	
-----	X	

**AFFIDAVIT OF DISINTERESTEDNESS**

ALBERT TOGUT, being duly sworn, deposes and says:

1. I maintain an office at Togut, Segal & Segal LLP (the “Togut Firm”), One Penn Plaza, New York, New York 10119. I submit this declaration in connection with my appointment as Examiner in the Chapter 11 cases of West End Financial Advisors, LLC, *et al.* (the “Debtors”).

2. I have reviewed: the Debtors’ Chapter 11 petitions; the Declaration of Raymond J. Heslin Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York and in Support of First-Day Motions and all of the lists and schedules annexed thereto; the Debtors’ consolidated Schedules and Statement of

Financial Affairs; the Debtors' list of creditors holding 50 largest unsecured claims; the docket for these jointly administered cases; and select pleadings.

3. To the best of my knowledge, information and belief, with respect to the above-captioned case, neither I nor any member, attorney or employee of the Togut Firm has any connection with:

- the Debtors or their non-debtor affiliates;
- the Debtors' scheduled creditors;
- the Debtors' scheduled equity holders;
- the attorneys for the Debtors;
- the Securities and Exchange Commission;
- Mark S. Radke, the Independent Monitor appointed in the action *Securities and Exchange Commission v. Landberg, et al.*, SDNY ECF 11-CV-0404 (PKC); or
- Chartis Specialty Insurance Company.

4. Neither I nor any member, attorney or employee of the Togut Firm has ever been a member, officer or employee of the Debtors or had an interest materially adverse to the interests of the Debtors' estates or any class of creditors or equity security holders by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors.

5. For the past 31 years, I have been a member of the panel of private chapter 7 trustees in the Southern District of New York. I do not have any connection with the United States Trustee or any employees of the United States Trustee.

6. I believe that I am a "disinterested person" pursuant to and within the meaning of the United States Bankruptcy Code, 11 U.S.C. 101(14).



## **Background and Qualifications**

7. I was admitted to practice law in 1975 and have 36 years of experience, almost exclusively in the areas of bankruptcy and debtor and creditor rights. I have been a member of the panel of private Chapter 7 trustees in the Southern District of New York since 1981, and have been frequently appointed to serve as Chapter 11 trustee and Chapter 7 trustee, and in those capacities I have been responsible for the investigation and examination of debtors' financial affairs. I have experience in examining debtors' pre-petition transactions with professionals. For example, in the Chapter 11 case of *In re Allegiance Telecom, Inc., et al.*, Case No. 03-13057 (RDD), I was directed by the Bankruptcy Court to examine the debtors' pre-petition transactions with professionals, and as a result of that examination, recovered pre-petition fees paid that were preferential.

8. I served on the American Bankruptcy Institute's fee study commission that reviewed professional fees in bankruptcy nationwide and that issued a report on its findings.

9. I have written and lectured on many topics under the former Bankruptcy Act and current Bankruptcy Code, and have been interviewed for newspaper articles and financial news radio and television programs. For several years, I chaired the Plan Process Task Force of the Chapter 11 Business Bankruptcy Committee of the American Bar Association Section of Business Law, and have served on the Bankruptcy Committee of the Association of the Bar of the City of New York. I am a

fellow of the American College of Bankruptcy and International Insolvency Institute,  
and a member of the Board of the American Bankruptcy Institute.

/s/Albert Togut

ALBERT TOGUT

SWORN TO before me this  
23rd day of June, 2011.

/s/Neil Berger

Notary Public

## EXHIBIT 2

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
	:	Chapter 11
In re	:	
	:	Case No. 11-11152 (SMB)
WEST END FINANCIAL	:	
ADVISORS, LLC, <i>et al.</i> ,	:	(Jointly Administered)
	:	
Debtors.	:	
	:	
-----X		

ORDER APPROVING THE APPOINTMENT OF CHAPTER 11 EXAMINER

Upon the application of the Tracy Hope Davis, the United States Trustee for Region 2; and it appearing that Albert Togut, Esq., a disinterested person as set forth in 11 U.S.C. § 101(14), has been appointed by the United States Trustee in the above-captioned Chapter 11 cases; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that the appointment of Albert Togut, Esq., as Examiner is approved pursuant to 11 U.S.C. § 1104(d).

Dated: New York, New York  
June \_\_, 2011

\_\_\_\_\_  
HONORABLE STUART M. BERNSTEIN  
BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x		
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In re	:	
	:	Case No. 11-11152 (SMB)
WEST END FINANCIAL	:	
ADVISORS, LLC, <i>et al.</i> ,	:	(Jointly Administered)
	:	
Debtors.	:	
	:	
-----x		

**NOTICE OF APPOINTMENT OF EXAMINER**

To: Albert Togut, Esq.  
Togut, Segal & Segal LLP  
One Penn Plaza  
Suite 3335  
New York, NY 10119  
(212) 594-5000

You are hereby notified of your appointment as Examiner in the above-captioned cases.

Dated: New York, New York  
June 23, 2011

TRACY HOPE DAVIS  
UNITED STATES TRUSTEE

By /s/ Brian S. Masumoto  
Brian S. Masumoto  
Trial Attorney  
33 Whitehall Street, 21st Floor  
New York, New York 10004-2112  
Tel. No. (212) 510-0500